

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA	:	NO. 1:09-CR-00202
	:	
v.	:	OPINION & ORDER
	:	
CAESAREA JAMES	:	

This matter is before the Court on Defendant's pro se Motion for Dismissal of Indictment or the Latter Grant Order for the Prosecutor to Produce Grand Jury Material (doc. 33) and the Government's response thereto (doc. 37).

Defendant was indicted by the federal grand jury on December 16, 2009, and a superseding indictment was filed against him on April 20, 2010. Count one of the April indictment charged Defendant with wire fraud, based on an alleged false statement on a mortgage application, in violation of 18 U.S.C. § 1343; count two charged mail fraud, based on an alleged false statement on a mortgage application, in violation of 18 U.S.C. § 1341; count three charged fictitious obligations, based on an alleged fraudulent check, in violation of 18 U.S.C. § 514(a); and count four charged bankruptcy fraud. This matter is set for trial to begin on October 5, 2010.

The Court notes that Defendant has represented himself pro se in numerous civil actions in this district: James v. Guaranteed Rate, Inc., 09-cv-38, before the Honorable Sandra S. Beckwith (dismissed for lack of jurisdiction on April 6, 2009); James v. Guaranteed Rate, Inc., 09-cv-673, before the Honorable

Michael R. Barrett (pending motion for summary judgment filed by James); and James v. WMC Mortgage Corp., 10-cv-03, before the Honorable Susan J. Dlott (pending motions for summary judgment and default judgment filed by James). In this criminal matter, however, Defendant is represented by counsel, First Assistant Federal Public Defender Richard Smith-Monahan. Indeed, Defendant is well represented in this case by eminent counsel, who has submitted on Defendant's behalf five separate motions to dismiss, strike and/or sever, which motions are scheduled for a hearing on September 22, 2010. As the Court has ruled in similar cases where defendants represented by counsel nonetheless submit motions pro se, the Court declines to consider James' pro se motion to dismiss (doc. 33). See, e.g., United States v. Harper, 2009 WL 5216040 (S.D. Ohio Dec. 29, 2009), citing United States v. Howton, 260 Fed. Appx. 813, 819 (6th Cir. 2008); see also United States v. Mosely, 810 F.2d 93, 98 (6th Cir. 1987)(noting the potential for undue delay, jury confusion, conflicts and disagreement with counsel as among the reasons hybrid representation can be problematic and affirming discretion of district court to deny motion for such representation).

Further, the Court notes its concern that Defendant's actions here are attempts to manipulate the Court into delaying the inevitable trial in this matter. To be clear, the Court will tolerate no such attempts. Defendant has requested and been granted two continuances already. James and his counsel have had

ample time to review the discovery in this case and prepare his defense. The trial date in this case remains October 5, 2010.

SO ORDERED.

Dated: September 21, 2010

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge